

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In Re Flint Water Cases

No. 5:16-cv-10444-JEL-MKM

HON. JUDITH E. LEVY

MAG. MONA K. MAJZOUB

**ORDER AMENDING THE FWC QUALIFIED SETTLEMENT FUND
AGREEMENT PREVIOUSLY APPROVED BY THE COURT IN
DOCKET NUMBER 1410, AND AMENDING SECTION 10.3 OF THE
AMENDED SETTLEMENT AGREEMENT**

This matter is before the Court on the stipulation of the Settling Parties to amend the FWC Qualified Settlement Fund Agreement previously approved by the Court in docket number 1410, and to amend Section 10.3 of the Amended Settlement Agreement (the “Stipulation”). The Court has considered the Stipulation and more specifically the following:

On January 21, 2021, the Court issued its *Opinion and Order Granting Plaintiffs’ Motion to Establish Settlement Claims Procedures and Allocation and for Preliminary Approval of Class Settlement Components [1318] and Granting Plaintiffs’ Motion for an Order Adopting the Proposed Motion for Approval of Wrongful Death Settlement [1334]*, ECF 1399 (“Order”).¹

¹ All capitalized terms herein have the same meaning set forth in the Amended Settlement Agreement that the Court has preliminarily approved.

Consistent with the Amended Settlement Agreement, the Court entered on February 4, 2021 its *Order Granting Motion to Establish Qualified Settlement Fund and Sub-Qualified Settlement Funds, and Establishing QSF Authorized Banking Institution* [1408], ECF 1410 (“QSF Order”). Pursuant to the QSF Order, the Settling Parties signed an FWC Qualified Settlement Fund agreement in March 2021, the form of which had been approved by the Court as the “Trust Agreement” in its QSF Order (“Trust Agreement”).

Pursuant to the Amended Settlement Agreement, funds have been deposited into the QSF, and additional funds are expected to be deposited into it. The Settling Parties in consultation with the QSF Administrator have determined that it would be advantageous to have a broader range of investment options available to enable greater earnings on the Settlement Fund for the benefit of the Claimants. The Settling Parties have agreed that additional investment options are necessary, and should be available for the QSF Administrator to consider and use to enhance the performance of the investments of the QSF, until the QSF is paid out under the terms of the Amended Settlement Agreement. The Court agrees as well.

Pursuant to their Stipulation, the Settling Parties now wish to amend the Trust Agreement approved in the QSF Order to allow for additional investment options for the QSF to be considered and used by the QSF Administrator, in its

discretion. The proposed amended Trust Agreement will provide the potential for enhanced investment earnings options on the QSF for the QSF Administrator, while maintaining the safety of the principal assets of the QSF.

The Settling Parties have submitted a proposed amended Trust Agreement attached to their Stipulation, and the Court finds it acceptable.

Pursuant to their Stipulation, the Settling Parties also wish to amend Section 10.3 of the Amended Settlement Agreement to allow for the additional investment options to be used for the QSF by the QSF Administrator as provided for in the proposed amended Trust Agreement attached to their Stipulation. That Stipulation of the Settling Parties, subject to the Court's approval, effectively amends Section 10.3 of the Amended Settlement Agreement accordingly, so that Section 10.3 now provides as follows:

10.3 The FWC Qualified Settlement Fund and the Sub-Qualified Settlement Funds shall be invested in (i) any obligations of, or any obligation guaranteed as to principal and interest by, the United States of America or any agency or instrumentality thereof; or (ii) U.S. dollar denominated deposit accounts with domestic commercial or national banks that have a short term issuer rating on the date of purchase of "A-1" or better by S&P or "Prime-1" or better by Moody's and maturing in a time period matched to the projected time period of distributions from the Fund as estimated by the Claims Administrator after the date of purchase (provided that ratings on holding companies are not considered as the rating of the bank); or (iii) money market accounts or money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Securities Act, and rated "AAAm" or "AAAm-G" or better by S&P, and "Aaa," "Aa1" or "Aa2" if rated by Moody's, including any mutual fund for which the QSF Administrator or an affiliate of the QSF Administrator serves as investment manager, administrator, shareholder

servicing agent, and/or custodian; or (iv) any obligations of, or guaranteed by, domestic or international corporations, provided that they are rated investment grade by either S&P and/or Moody's rating services, and that the rating restriction must be maintained upon purchase as well as for the investment holding period. The duration of such investments shall match the projected time periods of distributions from the FWC Qualified Settlement Fund or the Sub-Qualified Settlement Funds as estimated by the Claims Administrator. Such portions of the FWC Qualified Settlement Fund as may reasonably be needed to pay current expenses associated with issuing the Individual Notice and the Settlement Class Notice and administering the FWC Qualified Settlement Fund or the Sub-Qualified Settlement Funds may be deposited in a federally insured bank account. All interest earned by the FWC Qualified Settlement Fund or the Sub-Qualified Settlement Funds shall become and remain part of each such Fund and may be used to pay any fees and expenses incurred to implement this Settlement Agreement.

IT IS HEREBY ORDERED, that the Court approves and authorizes the amended Trust Agreement attached to the Stipulation. The Court further approves and authorizes the above amendment of Section 10.3 of the Amended Settlement Agreement to allow for the additional investment options to be used for the QSF by the QSF Administrator as provided for in such amended Trust Agreement. Other than as specifically described above, nothing in this order otherwise amends the Amended Settlement Agreement or affects the QSF Order.

IT IS SO ORDERED.

Dated: July 22, 2021
Ann Arbor, Michigan

s/Judith E. Levy
JUDITH E. LEVY
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on July 22, 2021.

s/William Barkholz
WILLIAM BARKHOLZ
Case Manager